

**REMARKS/ARGUMENTS**

Upon entry of the above amendment, claims 1-6 will have been canceled and claims 7-10 will be submitted for consideration by the Examiner. In view of the present amendment, Applicant respectfully requests reconsideration of the outstanding rejections in the present application. Such action is respectfully requested and is believed to be appropriate and proper.

Initially, Applicant would like to express his appreciation to the Examiner for the detailed Official Action provided, for indicating the acceptance of the drawings filed in the present application on February 5, 2002, and for acknowledging Applicant's claim for priority under 35 U.S.C. §119 and receipt of the certified copy of the priority document. Applicant also notes with appreciation the Examiner's acknowledgment of Applicant's Information Disclosure Statement that was filed in the present application on April 2, 2002, as indicated by the return of the initialed and signed PTO-1449 Form, and confirming the Examiner's consideration of the documents cited in the Information Disclosure Statement.

In this regard, Applicant notes that U.S. Patent Application No. 09/497, 181 to SAWADA, which has been considered by the Examiner, issued as U.S. Patent No. 6,735, 619 on May 11, 2004. Accordingly, Applicant lists this patent on a PTO-1449 Form attached to this response, so that the issued patent, and not its application number, will appear on a patent issuing from the present application. The Examiner is respectfully requested to complete the PTO-1449 Form and return a completed copy to Applicant. Applicant submits that no fee is

required to be paid for this purpose, as Applicant is merely updating the status of a document previously considered by the Examiner.

Turning to the merits of the action, the Examiner has rejected claim 6 under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. By the present amendment, Applicant has canceled claim 6 without prejudice and disclaimer. Thus, Applicant respectfully submits that this rejection has been rendered moot.

The Examiner has rejected claims 1-3 under 35 U.S.C. § 102 (e) as being anticipated by MIMMS (U.S. Patent Application Publication No. 2002/0176355 A1). The Examiner has rejected claims 4-5 under 35 U.S.C. § 103 (a) as being unpatentable over MIMMS.

As noted above, Applicant has canceled claims 1-6, and submits new claims 7-10. Applicant respectfully traverses the above rejection based on the newly added claims 7-10 and will discuss the outstanding rejection with respect to these claims in the present application, as will be set forth hereinbelow. The newly added claims merely clarify the subject matter recited in the canceled claims, but do not narrow the scope of the claims.

Applicant's claim 7 relates to a backup gateway apparatus which operates on a home network. The backup gateway apparatus comprises a home net communicator selectively connected to a peripheral device and an outside connection communicator selectively connected to an Internet service provider and to a gateway apparatus. The primary gateway apparatus performs a routing operation, an application conversion, and a protocol conversion between the

peripheral device and the Internet service provider. The backup gateway apparatus includes a routing table which stores an address of the peripheral device and an address of the Internet service provider. The backup gateway apparatus also includes a controller which transmits a Route Information Protocol (RIP) to the primary gateway apparatus, updates the routing table based on a response to the RIP from the primary gateway apparatus, and determines that the primary gateway apparatus is malfunctioning when the response to the RIP is not detected for a predetermined time. The controller also performs the routing operation between the peripheral device and the Internet service provider based on the updated routing table without performing the application conversion and the protocol conversion when it is determined that the primary gateway apparatus is malfunctioning. When the controller determines that the primary gateway apparatus is no longer malfunctioning (e.g., a response to the RIP is received from the primary gateway apparatus after it was determined that the primary gateway apparatus has malfunctioned), the routing operation is terminated. Thereafter, the primary gateway apparatus re-starts a routing operation, an application conversion, and a protocol conversion between the peripheral device and the Internet service provider. Claim 8 recites a related system, and claims 9-10 recite a related method. Applicant submits that this claimed combination is neither disclosed nor suggested by the applied art of record.

Applicant submits that MIMMS discloses a data communications network having a primary router, a secondary router, and a peer router. The primary

router and the peer router conduct a peer session to exchange information regarding the current state of the network topology. The secondary router monitors the peer session and replaces the primary router upon detecting a failure of the primary router.

However, Applicant submits that MIMMS does not disclose or even suggest a secondary router which determines that the primary router has recovered when a response to a predetermined signal (e.g., RIP) is received from the primary router after it was determined that the primary router has failed, and which terminates a routing operation when it is determined that the primary router has recovered. In other words, Applicant submits that MIMMS merely discloses replacing a first router with a second router when the first router has failed, or that the second router replaces the first router when the first router has failed (see, for example, paragraphs [0052], [0053] and [0056]). MIMMS does not disclose or suggest Applicant's feature of returning to use the primary gateway apparatus in place of the backup gateway after the primary gateway apparatus is determined to no longer be malfunctioning.

As noted above, the present invention discloses a backup gateway apparatus having a controller that determines when the primary gateway apparatus is no longer malfunctioning. According to the disclosed embodiment, when a response to the RIP is received from the primary gateway apparatus after it was determined that the primary gateway apparatus has malfunctioned, it is concluded that the primary gateway apparatus is no longer malfunctioning. Thus, the routing operation is terminated. In other words, the present invention

disclose not only a backup gateway apparatus which replaces a gateway apparatus when the primary gateway apparatus malfunctions, but also that the backup gateway apparatus is replaced by the primary gateway apparatus when the primary gateway apparatus no longer malfunctions, regardless of whether the backup gateway apparatus malfunctions. At least this claimed feature is neither disclosed or suggested by the applied art of record. Thus, Applicant submits that the pending claims are clearly distinguished over MIMMS.

As indicated above, Applicant submits new claims 7-10 that include the above-described feature. As at least this feature is lacking from MIMMS, Applicant submits that the present invention, as defined by the claims, are neither anticipated or obvious over MIMMS.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejections, and requests an indication of the allowability of the claims pending in the present application.

### **SUMMARY AND CONCLUSION**

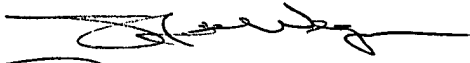

Applicant has made a sincere effort to place the present application in condition for allowance and believes that he has now done so. Applicant has canceled the rejected claims without prejudice and submits new claims for consideration by the Examiner. With respect to the pending claims, Applicant has pointed out the features thereof and has contrasted the features of the new claims with the applied art of record. Applicant has provided a clear evidentiary basis supporting the patentability of all claims in the present application, and

respectfully requests an indication of the allowability of all the claims pending in the present application in due course.

Any amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Should the Examiner have any questions or comments regarding this Response, or the present application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,  
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